

Appl. No. 10/014,190
Amdt. Dated January 19, 2005
Reply to Office Action of November 04, 2004

Amendments to the Drawings:

In response to the "Notice of Draftperson's Patent Drawing Review," the enclosed three sheets of drawings have been corrected to meet all of the requirements of the US Patent and Trademark Office. Accordingly, it is respectfully requested that the enclosed drawings be entered in substitution for the previously filed drawings.

5 Attachment: Three Replacement Sheets

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REMARKS

Claims 1, 2, 5, and 8 through 19, remain pending. Claims 1, 5, 15, 17, 18, and 19 have each been currently amended. Claims 3, 4, 6, and 7 have been canceled.

"New corrected drawings are required in this Application because the drawings filed 5 on November 19, 2001, were objected to by the Draftsperson." In response to the "Notice of Draftsperson's Patent Drawing Review," Applicants have prepared corrected drawings, and filed the same herewith. The corrected three sheets of drawings now meet all the requirements of the US Patent and Trademark Office. It is respectfully requested that they be entered, and substituted for the previously filed drawings. Accordingly, it is also respectfully 10 requested that the objection to the drawings be removed.

"Claims 1-2, 5-8, and 14-19 are rejected under 35 U.S.C.102(b) as being anticipated by Honey et al. (5,917,553)." As will be discussed below, Applicants have amended the claims to insure that they are not anticipated or made obvious by Honey et al., as taken individually or in combination with any of the other references cited by the Examiner.

15 Claim 1, as currently amended, is now claiming the following:

A method-for insuring the video broadcast of a logo for a period of time, comprising the steps of:

20 receiving at least one video datastream of an event;
identifying one or more regions of interest (ROIs) having characteristics associated with a logo of interest in one or more images comprising the at least one datastream;

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analyzing the one or more ROIs to detect if the logo is present in at least one of the ROIs;

responding to the detection of the presence of the logo for selectively broadcasting the associated ROI for at least a minimum period of time; and

5 tracking in real time the total time the logo is present during the period of time the event is broadcast, to permit associated advertisers to independently confirm acceptable broadcast of paid for advertising.

The Examiner cited various teachings of Honey that the Examiner both believed
10 anticipate Claims 1, 15, 18, and 19 as filed: Applicants have carefully reviewed the Examiner's comments, and have amended the claims to clearly distinguish from the teachings of Honey. With reference to Claim 1 (currently amended), Honey does not recognize the need for ". . .insuring the video broadcast of a logo for a period of time," nor does Honey teach the step of "responding . . ." as now claimed in Claim 1. In fact, Honey does not even allude to the
15 requirement for a broadcaster to ". . . selectively broadcasting the associated ROI for at least a minimum period of time;" nor the "tracking in real time the total time the logo is present during the period of time the event is broadcast to permit associated advertisers to independently confirm acceptable broadcast or paid for advertising." In addition, none of the other references cited by the Examiner whether taken individually or in combination anticipate or make obvious
20 the method of Claim 1, as currently amended. Claim 1, as currently amended, is currently free of the teachings of the cited references.

It can only be through the use of hindsight that one could argue that Claim 1 (currently amended) is anticipated or made obvious by Honey. Applicants would like to bring to the Examiner's attention well established case law that clearly shows that the court frown about
25 such use of hindsight, examples of such cases being as follows:

It is stated in In re Sernaker, 217 U.S.P.Q. 1, 6 (C.A.F.C. 1983): "prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings."

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It is clear that the suggestion to combine references should not come from Applicant, as was forcefully stated in Orthopedic Equipment Co. v United States, 217 U.S.P.Q. 193, 199 (C.A.F.C. 1983): "It is wrong to use the patent in suit [here the application] as a guide through the maze of prior art references, combining the right references in the right way to achieve the result of the claims in suit [here the claims pending]. Monday morning quarterbacking is quite improper when resolving the question of nonobviousness in a court of law [here the PTO]."

10 Applicants invention as claimed. Applicants would like to bring the following cases
to the Examiner's attention:

The Supreme Court in Calmar, Inc. v. Cook Chemical Co., 383 U.S. 1, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966), in which the Court warns the dangers of "slipping into hindsight", citing the case of Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co., 332 F.2d 406, 141 U.S.P.Q. 549 (6th Cir., 1964), where the doctrine is stated:

We now come to the patented device which after all is the subject matter of this case. At the outset we take note of two well-established principles. The first is that in considering the questions of obviousness, we must view the prior art from the point in time prior to when the patented device was made. Many things may seem obvious after

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they have been made and for this reason courts should guard against slipping into use of hindsight. We must be careful to "view the prior art without reading into that art the teachings of appellant's invention." Application of Sporck, 301 F.2d 686, 689 (C.C.P.A).

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The courts have long held that there must be some teaching in the references cited to suggest the combination of the references in a manner to obtain the combination of elements of the rejected claim(s). It is well known that in order for any prior art references themselves to be validly combined for use in a prior-art § 103 rejection, the references themselves, or some other prior art, must suggest that they be combined. For example:

The Board has stated in *Ex parte Levengood*, 28 USPQ 2d 1300 (PTOBA&I 1993):

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"In order to establish *prima facie* case of obviousness, it is necessary for the examiner to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art would have been led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. ... That which is within the capabilities of one skilled in the art is not synonymous with obviousness. ... That one can reconstruct and/or explain the theoretical mechanism of an invention

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by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed 5 invention.... Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden establishing a prima facie case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of ordinary skill in the art, that 'would lead' that individual 'to combine 10 the relevant teachings of the references which describe various aspects of a patent applicant's invention without also providing evidence of a motivating force which would impel one skilled in the art to do what the patent applicant has done."

As was further stated in Uniroyal, Inc. v Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434 15 (C.A.F.C. 1988), "where prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than hindsight gleaned from the invention itself.... Something in the prior art must suggest the desirability and thus the obviousness of making the combination."

Claim 5 (currently amended) is dependent from Claim 1, and as such is patentable for 20 the same reasons as Claim 1 (currently amended). Claim 5 (currently amended) has been amended to now claim that ". . . the two or more datastreams being individually selectable for broadcasting the event via the one of said datastreams showing the logo until the total time

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the logo has been broadcast during an event is at least equivalent to the associated paid for advertising time." Neither Honey or any of the other cited references, whether taken individually or in combination anticipate or make obvious Claim 5 (currently amended). Accordingly, for this reason alone, Claim 5 (currently amended) is patentable.

5 Claims 2 and 14 are each dependent from Claim 1. Accordingly, each of these claims are patentable for at least the same reasons as Claim 1 (currently amended).

Claim 15, as currently amended, is now claiming the following:

10 A system for detecting and analyzing the presence of a logo, the system comprising a processor having input that receives at least one video datastream of an images comprising the at least one datastream, analyzes the one or more ROIs to detect if the logo is present in at least one of the ROIs, and insures that an ROI having the logo is broadcast during the event for at least a total period of time corresponding to an associated advertiser's prepaid advertising.

15 Neither Honey or any of the other cited references, whether taken individually or in any combination, anticipate or make obvious Claim 15 (currently amended). These references make no teaching that ". . . insures that an ROI having the logo is broadcast during the event for at least a total period of time corresponding to an associated advertiser's prepaid advertising." Accordingly, Claim 15 (currently amended) is patentable.

20 Claim 16 is dependent from Claim 15, and as such is patentable for at least the same reasons as Claim 15 (currently amended).

25 Claim 17, as currently amended, is now claiming that ". . . the two or more datastreams being individually selectable for broadcasting the event via the one's of said datastreams showing the logo until the total time the logo has been broadcast during the event is at least equivalent to the associated paid for advertising time." Neither Honey or any of the

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other cited references, whether taken individually in any combination, anticipate or make obvious Claim 17 (currently amended). Accordingly, for this reason alone, Claim 17 (currently amended) is patentable. Also, Claim 17 (currently amended) is dependent from Claim 15, and as such is patentable for at least the same reasons as Claim 15 (currently amended).

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Claim 18, as currently amended, is now claiming the following:

10 Software for detecting and analyzing the presence of a logo, the software receiving as input digital representations of images that comprise at least one video datastream of an event, the software identifying one or more regions of interest (ROIs) for the logo in one or more images comprising the at least one datastream, analyzing the one or more ROIs to detect if the logo is present in at least one of ROIs, and monitoring the presence of the logo in the image when so detected, wherein the software provides an output regarding detection of the presence of the logo that is usable in insuring the broadcast of the logo during the event for a total accumulated 15 time corresponding to paid for advertising of an advertiser.

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Claim 18 (currently amended), as indicated, is now claiming software for ". . . insuring the broadcast of a logo during an event for a total accumulated time corresponding to paid for advertising of an advertiser." Neither Honey or any of the other cited references, whether 20 taken individually or in any combination, anticipate or make obvious the software of Claim 18 (currently amended). Accordingly, Claim 18 (currently amended) is patentable.

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Claim 19 (currently amended) is now claiming the following:

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A system for detecting and analyzing the presence of a logo, the system comprising a processor having input that receives at least one video datastream of an event, analyzes the image to determine if the logo is present in at least one portion of the image and monitors the presence of the logo in the image when so detected, wherein the detection of the presence of the logo is used in insuring the broadcast of the logo during the event for a total accumulated time corresponding to paid for advertising of an advertiser.

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Neither Honey, or any other of the cited references, whether taken individually or in any combination anticipate or make obvious a system for ". . . insuring the broadcast of the logo during the event for a total accumulated time corresponding to paid for advertising of an advertiser." Accordingly, Claim 19, currently amended is patentable.

5 "Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey et al (5,917,553) in view of Honey et al (6,466,275)." Claims 3 and 4 have been canceled. Accordingly, this rejection is not moot.

10 "Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey et al (5,917,553) in view of Lipson et al. (5,963,670)." These claims are each dependent from Claim 8. Also, Claim 8 is dependent from Claim 1. accordingly, Claims 8 through 11 are each patentable for at least the same reasons as Claim 1 (currently amended).

15 "Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honey in view of Kressel (6,690,829)." Claim 12 is dependent from Claim 1, and Claim 13 is dependent from Claim 12. Accordingly, Claims 12 and 13 are patentable for at least the same reason as Claim 1 (currently amended). For similar reasons, Claim 14 is patentable.

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Applicants have shown that the claims as now presented are patentable over the cited references, whether taken individually or in any combination.. Accordingly, it is respectfully requested that the claims as now presented be allowed, and the case passed on to issue.

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Respectfully submitted,



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